

ZONING BOARD OF REVIEW

Barrington, Rhode Island

April 16, 2015

APPLICATIONS #3795, 3796, 3797, 3798, 3799, 3800, 3801 & 3802

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Mark Freel, Elizabeth Henderson, Ladd Meyer and David Rizzolo.

Peter Dennehy arrived at 8:10 P.M.

Also present were Assistant Solicitor Amy Goins, Building Official Bob Speaker and secretary Mary Ann Rosenlof.

At 7:00 P.M., Mr. Kraig called the meeting to order.

Application #3795, Florence Evans, Barrington Cove, 90 Bay Spring Ave., #230, Barrington, RI, applicant, and Victoria Duarte, 39 Brow St., Barrington, RI, owner, for permission to build an addition, Assessor's Plat 22, Lot 364, R-10 District, 39 Brow St., Barrington, RI, requiring dimensional relief for side yard setback .

Present: Victoria Duarte, owner, and Florence Evans, applicant

Ms. Duarte stated that she is proposing an addition for her elderly parents who currently reside at Barrington Cove Apartments. Her dad was recently diagnosed with benign tremors and it is difficult for him to use the stairs when the elevator is out of order. They are over the setback by 2' 6" because they are requesting an ADA-compliant bathroom to accommodate wheelchair and walker access. The addition does not require a special use permit because there will not be a stove and therefore the addition is not an accessory apartment.

At 7:16 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Rizzolo made a motion to approve the application. Mr. Ladd seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent

or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3796, Mars and Felicia Bishop, 467 Washington Rd., Barrington, RI , applicants and owners, for permission to build an enclosed mudroom/entry connecting garage to house, rebuild stairs & enlarge front entry w/open porch, and expand kitchen & build new 2nd floor over existing den. Assessor's Plat 5, Lot 15, R-40 District, 467 Washington Rd., Barrington, RI, requiring dimensional relief for front & side yard setbacks.

Present: Felicia Bishop, applicant and owner
Scott Weymouth, architect

Ms. Bishop explained that this is a very old house built in the late 1800s and the stairs have a high rise and shallow depth and are very treacherous. They would like to enlarge the front entry so they can bring the stair treads out further, reducing the steepness. The current landing is very short and the front door goes beyond the landing when fully opened and is dangerous.

Mr. Weymouth said that in order to create sufficient space in the kitchen for the family to eat – where they regularly have meals - they need to add the bump-out for the table / bench seat. The Board discussed with Mr. Weymouth the layout of the kitchen and was satisfied that there was no other way to rearrange the room and provide eating space without the addition. They would also like to build over the porch to expand the existing two small rooms used by the children, extending into the setback; there is no other place to put this addition that would make sense.

Exhibit A: A Letter in favor of this application from neighbors Chilton M. Ames and Newcomb D. Cole III was submitted to the Board by Ms. Bishop.

At 7:35 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- The size of the lot is very large but the house was built in one corner of the property, going into the front and side yard setbacks.
- These are modest improvements and the neighbors approve of this application.

MOTION: Mr. Freel made a motion to approve the application. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief

necessary. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3797, Carlos and Nicole Dominguez, 8 Glenfield Rd., Barrington, RI, applicants and owners, for permission to build accessory living quarters, 3rd car garage, and front porch. Assessor's Plat 24, Lot 160, R-25 District, 8 Glenfield Rd., Barrington, RI, requiring dimensional relief for front yard setback and special use permit for accessory living quarters.

Present: Carlos and Nicole Dominguez, applicants and owners
Scott Weymouth, architect

Exhibit A: New drawings were submitted to the Board by Mr. Weymouth.

Mrs. Dominguez explained that the proposal for the accessory living quarters will be so her mother can live there and help with her two children. The front porch is requested so there is a place to sit and watch the children in the front yard where their children and many neighborhood children often play. Mr. Dominguez noted that the porch would also provide a shady place for his 75 year old mother-in-law to sit while watching the children.

Mr. Weymouth described the construction of the addition. The regulations for the accessory living quarters were discussed, and it was specifically noted that if a new owner of this property were to rent this accessory apartment to someone other than a family member; it would need to be deed restricted.

Exhibit B: Letters of support from neighbors Andra & Barry Shea and Lisa Keswick & Eduardo Borges were submitted to the Board by Mrs. Dominguez.

At 7:58 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- This is a modest addition in a reasonable location.
- Our Comprehensive Community Plan encourages the use of front porches, which benefit the inhabitants of the house and the community.

MOTION: Mr. Rizzolo made a motion to approve the dimensional variance portion of this application. Mr. Freel seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have

been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

MOTION: Mr. Freel made a motion to approve the special use permit portion of this application. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

DISCUSSION:

- The Board relied on the facts noted during the dimensional variance discussion.
- There is sufficient parking.
- There are no adverse conditions created by this application.

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served; there will be no negative impact on the public; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Additionally, the standards for an accessory apartment set forth in Section § 185-141 have been met in that it is in an R-25 Zoning District. Also, the requirements of § 185-143 have been met: A) The accessory apartment shall be designed and constructed in such a way as to maintain the appearance of the use of the lot as a single-household residence, and there shall be no change to the front façade of the house; B) The accessory apartment shall contain no more than 800 square feet or 40% of the gross floor area of the principal building, whichever is less. Said square footage shall be calculated using the exterior measurements of the structure excluding any covered porch areas, stairs providing access to the accessory apartment and areas designed exclusively for HVAC and utilities. Where the Zoning Board finds that special circumstances exist that are peculiar to the lot or parcel in question, relief from this requirement shall be available by special use permit; C) The lot or parcel of land on which the residence containing an accessory apartment sits shall have the minimum area, width and frontage prescribed for the district in which the dwelling is located. The Zoning Board of Review may grant relief from this section by special use permit; provided, however, that no lot or parcel, regardless of the district in which it is located, shall be less than 10,000 square feet; D) The accessory apartment shall be connected to the sewer system of the Town of Barrington, and to the water system of the Bristol County Water Authority, or the successor thereto, when accessible or available to the original dwelling; E) One parking space for the accessory apartment shall be provided in addition to the minimum required for the original dwelling. No new driveway or curb cut shall be created to service the accessory apartment; F) An accessory apartment shall be reserved for rental occupancy by individuals or a family whose annual income does not exceed the region's income limits for low- and moderate-income housing as defined by the State of Rhode Island and is monitored and restricted to such occupancy for a minimum of 30 years, unless specifically reserved for one or more members of the family of the owner-occupant of the principal residence; G) Not more than one accessory apartment shall be permitted in a single-family home.

MINUTES OF THE PREVIOUS MEETING:

With the arrival of Mr. Dennehy at 8:10, a quorum became available to approve the March minutes.

MOTION: Mr. Freel made a motion to approve the March 19, 2015 minutes as written. Ms. Henderson seconded the motion and it carried unanimously (5-0).

Application #3798, Magnus Thorsson, 18 Ernest St. Barrington, RI, applicant and owner, for permission to remove portion of existing structure and deck and build an addition, Assessor's Plat 1, Lot 98, R-10 District, 18 Ernest St., Barrington, RI, requiring dimensional relief for side yard setback.

Present: Magnus Thorsson, applicant and owner

Mr. Thorsson explained his proposal to add a net 620 square feet to his home, removing some of the existing structure and a deck. This house was built in 1920. The stairs and bathroom need to be brought up to code. He is seeking one foot relief from the side yard setback. The existing house is already one foot too close and he is proposing to build on the line of the existing house. This relief is for a window seat on the south side of the house without which eating in the dining room would not be feasible. The Board discussed with the applicant the calculation of lot coverage, encouraging him to review this before he proceeds since no coverage relief is requested.

At 8:33 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- The proposed addition is no closer than the existing house already is to the property line.
- The dining room is small and he could not fully utilize it without the window seat and it is the only eating area in the home.

MOTION: Mr. Freel made a motion to approve the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3799, Ellen Lara, 92 Alfred Drown Rd., Barrington, RI, applicant and owner, for permission to demolish existing garage & build a one-story/2-car detached garage on same footprint, Assessor's Plat 2, Lot 38, R-10 District, 92 Alfred Drown Rd., Barrington, RI, requiring dimensional relief for front yard setback.

Present: Ellen Lara, applicant and owner

In the audience: Scott Weymouth, architect acting as a neighbor

There was discussion by Ms. Lara, Mr. Speaker, Mr. Weymouth and the Board regarding the condition of the garage and what repair / rebuild might be required for the foundation; it was noted that any new foundation would have to meet the current code. Ms. Lara proposes to tear down the existing garage and build a new garage on the existing footprint, utilizing the existing floor and foundation. The Board stated that if a new foundation needed to be built; it would not allow building right on the property line the way the existing garage is. The only way this application might be approved would be if the existing slab and foundation could be reused, which appears unlikely.

At 9:12 p.m., the public participation portion of the hearing was closed.

Prior to the Board's proceeding with the application, Ms. Goins suggested that the Board ask the applicant if she would like to withdraw her application and come back with definite information from an expert as to whether the foundation can be reused and if a garage can be built without encroaching on town property.

The public participation was reopened at 9:17 p.m.

Ms. Lara asked for a continuation of this application.

MOTION: Mr. Freel made a motion to continue this application to the June, 2015 meeting and asked that the applicant consult with the Building Official, as necessary, and then come back before the Board with additional information about the integrity of and her ability to reuse the slab and foundation of this building so that the Board has that information to consider in connection with acting on the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3800, Barrington Yacht Club, 25 Barton Ave., Barrington, RI, applicant and owner, for permission to add an additional ten boat slips below the mean high water mark, Assessor's Plat 27, Lot 91, WB District, 25 Barton Ave., Barrington, RI, requiring a special use permit for an expansion.

Ms. Goins explained that the members of the Board who are also members of the Barrington Yacht Club do not require recusal from this application according to the Ethics Commission; members of an organization are not considered business associates unless they are officers or directors.

Present: Anthony DeSisto, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Ste. 103, East Providence, RI
John Ratcliffe, Rear Commodore, Barrington Yacht Club
Robert Manchester, immediate Past Commodore and member of the Board, Barrington Yacht Club

Mr. DeSisto said that he does not believe that the Barrington Yacht Club (BYC) needs to get a special use permit for the proposed addition. The current use is authorized by special use. The proposed

additional ten slips are below the mean high water mark, and the Town does not have any authority below the mean high water mark. This is not a non-conforming use. In response to Ms. Goins' comments, Mr. DeSisto stated that under Article 14 of Special Use Permits; there is no provision stating that a use by special use permit if expanded needs to get another special use permit.

Ms. Goins stated her opinion that the proposed expansion does require a special use permit. Assistant Solicitor Teitz had provided a memo to the Building Official stating that the activities of a yacht club and marina are permitted by special use permit in the waterfront business zone and any expansion of that use, including increased docks slips, requires a special use permit.

Ms. Goins noted § 185-78 A (11), dealing with parking: "For a marina or yacht club: one space per 350 square feet of gross floor area plus ½ space per boat or slip." Furthermore, the additional slips may increase the number of people and activity at the BYC.

Mr. Manchester explained that this project has been years in the making. The plan was presented to CRMC with a letter of approval from the Harbor Commission. They received approval from CRMC in the fall of 2014. The BYC's bank requested a zoning certificate, and a special use permit was needed in order to obtain one.

Mr. DeSisto stated that there is more than sufficient parking to permit the new slips - 117 parking spaces vs. 82 required.

The Board discussed the expansion of the new docks, floating docks and the perimeter of the outside edge of the new docks, as well as traffic flow and activity at and surrounding the BYC. Mr. Manchester explained that although there are ten new slips proposed; that does not mean that the BYC will increase by ten new members or ten new boats. Some slips that may have housed two boats will now contain one. Also, there are club-owned boats that are used as part of the sail training program that may occupy some of the slips.

Following questions by the Board about the current number of slips compared to the number of slips proposed, Mr. Manchester indicated that in the 1990s, CRMC approved 84 or 85 slips; however, there were approximately 95 slips available at the BYC last year. He was not certain whether there was CRMC approval for that number of slips. However, he stated that the BYC did provide CRMC with appropriate documents for the application, and indicated that there would be 104 or 105 slips. CRMC did not want more than 103 slips due to pump-out concerns for a greater number of boats, and its approval was limited to 103 slips.

The public participation of the hearing was closed at 10:15 PM.

DISCUSSION:

- It was the determination of the Board that the addition of 10 slips would not materially add to traffic or congestion in the area
- There is ample parking
- None of the neighbors objected

MOTION: Mr. Blasbalg made a motion to approve the application. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board and based on § 185-72 Applicability that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served; there will be no negative impact on the public; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3801, Brandon Bassett, 28 Baron Rd., Barrington, RI, applicant and owner, for permission to use existing space on the lower level as accessory living quarters, Assessor's Plat 29, Lot 115, R-10 District, 28 Baron Rd., Barrington, RI, requiring a special use permit for accessory living quarters, including dimensional relief for minimum lot area.

Present: Brandon Bassett, applicant and owner

Ms. Goins stated that although the Agenda and Application refers to “accessory living quarters”, it would technically be considered an accessory apartment because it has a full kitchen. The term “Accessory Family Dwelling Unit” only appears in the definition section of the ordinance.

Ms. Goins referenced Section § 185-143 – C: “The lot or parcel of land on which the residence containing an accessory apartment sits shall have the minimum area, width and frontage prescribed for the district in which the dwelling is located. The Zoning Board of Review may grant relief from this section by special use permit; provided, however, that no lot or parcel, regardless of the district in which it is located, shall be less than 10,000 square feet”. This property is 6,000 square feet and does not meet that standard, and the Board cannot approve this application. The only way the applicant can legalize the existing “accessory apartment” is to take out the cooking facilities. This is a pre-existing illegal use.

The applicant withdrew this application.

Application #3802, Serene Pierce, 50 North 5th St., Apt. N-65, Brooklyn, NY 11249, applicant, and Thomas and E. Jenny Flanagan, 117 Highland Ave., Barrington, RI, owners, for permission to tear down existing home and garage and build a two-story home with a 2-car attached garage, Assessor's Plat 8, Lot 50, R-10 District, 117 Highland Ave., Barrington, RI, requiring dimensional relief for front and rear yard setbacks.

Present: Anthony DeSisto, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway,
Ste. 103, East Providence, RI
Serene Pierce, applicant
Thomas & E. Jenny Flanagan, owners
Alex Mitchell, Meridian Homes

In the audience: Paul Taldman, 115 Highland Avenue, Barrington, RI
Wendy Hutzler, 53 Water Way, Barrington, RI

Mr. DeSisto explained that on February 19, 2015, the Zoning Board denied an application for this property, for a dimensional variance to demolish the existing single-family residence and detached

garage and construct a two-story single family residence with an attached garage. On March 19, 2015, the Zoning Board considered an affidavit regarding a subsequent application for a dimensional variance and found that a substantial change in the factual circumstances did exist and the matter could be reheard within the one year bar period.

Mr. Mitchell described this structure as being poorly built in the 1930s as a beach house - the foundation is not sound and the house is not well insulated and is not practicable to repair.

Mr. Mitchell explained that the current structure violates three dimensional regulations. The proposed plan would require two dimensional variances: on the Water Way front yard - 16 feet, half a foot further back than the existing structure; and for rear yard, a variance of 9 feet for a 5 foot section where the fireplace would be, and 11 feet for the rest of the back yard. The new plans push the property off of Highland Avenue by 57 feet rather than 16 feet as indicated in the original plan. The garage would be twice as far from the property line as the current garage is. The new plans have been changed from a traditional colonial style with cottage elements to a cape style with cottage elements, and the roof line is reduced by 3 feet. The architecture is in keeping with the neighborhood. There are neighbors present that are excited about this new design and there are letters of approval from neighbors.

Mr. Rizzolo expressed his appreciation that the scale of the house was brought down and that they took the Board's feedback into consideration for their new design.

The Chairman noted that the Board had received two letters in support of this application: 1) Linda T. Lareau of 18 Bay Avenue and 2) Jean & Robert Robertson of 57 Water Way.

Exhibit A: Letters of support from Ted Friedman of 80 Highland Avenue and from Jennifer & John Auber of 39 Water Way were submitted to the Board by Mr. DeSisto.

Mr. Taubman of 115 Highland Avenue spoke in favor of this application.

Ms. Hutzler of 53 Water Way spoke in favor of this application.

The public participation portion of the hearing was closed at 10:45 p.m.

DISCUSSION:

- Repair / restoration of the existing house is not feasible, making a teardown reasonable
- The revised proposal has minimized the requested relief needed to build a usable home on this property
- The lot is very wide and lacking in depth, necessitating relief
- There is support from neighbors

MOTION: Mr. Rizzolo made a motion to approve the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not

result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

ADJOURN:

There being no other business, Mr. Kraig moved to adjourn at 10:50 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor